

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

In the Matter of ANGEL REYMUNDO  
MEDWAYOSH, MARIO RAUL MEDWAYOSH  
and OLIVIA ANGELICA MEDWAYOSH, Minors,

UNPUBLISHED  
July 20, 1999

---

FAMILY INDEPENDENCE AGENCY,

Petition-Appellee,

v

DOLORES BUSTILLOS and GREGORY  
MEDWAYOSH,,

No. 215152  
Ingham Circuit Court  
LC No. 00-004528

Respondents-Appellants.

---

Before: Holbrook, Jr., P.J., and Zahra and J.W. Fitzgerald\*, JJ.

PER CURIAM.

Respondents appeal as of right from the family court order terminating their parental rights to the minor children, Angel Medwayosh (DOB: 5/31/90), Mario Medwayosh (DOB: 3/11/91), and Olivia Medwayosh (DOB: 4/24/92). We affirm.

The minor children became temporary wards of the court on October 17, 1996, when respondents substantially admitted all of the allegations contained in the petition for temporary custody. The children remained in the custody of the court throughout these proceedings. Following the hearing on the petition to terminate parental rights, the trial court found that there was clear and convincing evidence to terminate respondents' parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j); MSA 27.3178(598.19b)(3)(c)(i), (g), and (j), and that respondents failed to demonstrate that it was clearly not in the children's best interests for parental rights to be terminated. This Court reviews the trial court's factual findings and its decision to terminate for clear error. *In re Miller*, 433 Mich 331, 337; 445 NW2d 445 NW2d 161 (1989); *In re Hall-Smith*, 222 Mich App 470, 472; 564 NW2d 156 (1997).

---

\* Former Supreme Court justice, sitting on the Court of Appeals by assignment.

MCL 712A.19b(3); MSA 27.3178(598.19b)(3) provides in pertinent part:

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

\* \* \*

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

\* \* \*

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

Our review of the lower court record indicates that termination was warranted pursuant to the above cited statutory provisions.

The children were originally adjudicated temporary court wards because of respondent mother's drug addiction and the fact that she was unable to provide them with a stable and appropriate home environment and because of respondent father's substance abuse problems and that, due to his frequent incarcerations, he was unable to provide the children with a stable home environment. At the time of the termination hearing, almost two years later, the conditions which led to the initial adjudication still had not been rectified.

Respondent mother and respondent father had approximately two years to rectify the conditions which brought the children into care but, even though some minimal progress was made just prior to the termination hearing, they failed to do so. The Legislature did not intend that children be left indefinitely in foster care but rather that parental rights be terminated if the conditions leading to the proceedings could not be rectified within a reasonable period of time. *In re Dahms*, 187 Mich App 644, 647; 468 NW2d 315 (1991). In view of this evidence, the trial court did not clearly err in finding that the conditions that lead to the adjudication continued to exist and were not reasonably likely to be rectified

within a reasonable time considering the ages of the children. MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i).

Evidence of respondents' continued substance abuse, respondent mother's mental illness and respondent father's continued illegal activities which resulted in frequent incarceration, also supported termination of their parental rights under sections (3)(g) and (3)(j). Respondent father resisted substance abuse therapy throughout the pendency of this matter and only submitted to in-patient treatment in the weeks prior to the termination hearing. In addition to using alcohol during the pendency of this matter, he also tested positive for cocaine. Moreover, respondent father had only been sporadically employed during the pendency of this matter, had been incarcerated four times during the pendency of this matter on a variety of charges, and had failed to visit his children on a regular basis.

Although respondent mother had made some progress in her treatment plan, she still had not successfully dealt with her long-term drug addiction. In fact, in the weeks prior to the termination hearing, respondent mother failed to provide weekly drug screens as requested by the FIA. When she did provide drug screens, they were positive for cocaine. Moreover, respondent mother suffered from a serious psychological impairment, bipolar disorder, and had a long-term history of mental illness which included multiple hospitalizations over the years. In light of her substance abuse addiction and mental illness, respondent mother would be unable to consistently meet her own needs much less the needs of these very active and demanding children. Respondent mother's own witnesses testified that it would take her at least an additional six months to a year to be able to properly care for the children.

We also find that the trial court did not err in deciding that termination of respondents' parental rights was in the minor children's best interests. Once a statutory ground for termination has been met by clear and convincing evidence, MCL 712A.19b(5); MSA 27.3178(598.19b)(5) requires a parent to put forth at least some evidence that termination is clearly not in the child's best interest. *In re Hall-Smith*, *supra* 222 Mich App 473. Absent any evidence addressing this issue by the parent, termination of parental rights is mandatory. *Id.* In this case, respondent father failed to present any evidence from which the trial court could conclude that termination was clearly not in the children's best interest. Although respondent mother presented evidence to indicate that the children were bonded to her and would be upset if her parental rights were terminated, the evidence was insufficient for the trial court to conclude that termination was clearly not in the children's best interest in light of the evidence presented regarding her long-term substance abuse addiction, her severe mental illness and her inability to properly care for the children.

In sum, we find that the trial court did not clearly err in finding that §§ 19b(3)(c)(i), (g) and (j) were established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). We further find that respondents failed to show that termination of their parental rights was clearly not in the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith*, *supra*, at 473. Thus, the family court did not err in terminating respondents' parental rights to the minor children. *Id.*

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Brian K. Zahra

/s/ John W. Fitzgerald